

SPEECH

OF

MR. ALLEN G. THURMAN, OF OHIO,

1813 - 1895

ON

THE OREGON QUESTION.

Delivered in the House of Representatives, U. S., January 28, 1846.

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MR. J. H. HARRIS

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S P E E C H .

The House being in Committee of the Whole on the state of the Union, and the resolution reported by the Committee on Foreign Relations, providing for the abrogation, by a notice to Great Britain, of the convention of August 6th, 1827, between Great Britain and the United States, being, together with the proposed amendments to said resolution, under consideration—

Mr. THURMAN said:

Mr. CHAIRMAN: The United States claim exclusive dominion over the whole of the country known by the name of Oregon, extending from the Rocky mountains to the Pacific in longitude, and from the forty-second to the fifty-fourth degree and fortieth minute of north latitude. Great Britain, on the other hand, asserts for herself, if not an absolute ownership of the same country, an assumed right, at least, to colonize and forever retain such vacant portions of it as she may see fit to occupy. These different claims, obviously altogether irreconcilable with each other, have been a subject of negotiation between the two governments for now nearly thirty years. The result of the negotiations has been the formation of two treaties, neither of which settled the controversy, or in any manner affected the question of title. By the third article of the first of these treaties, (the convention of 1818,) it was agreed:

“That any country that may be claimed by either party on the north-west coast of America, westward of the Stony mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years from the date of the signature of the present convention, to the vessels, citizens, and subjects of the two powers; it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any part of the said country; nor shall it be taken to affect the claims of any other power or state to any part of the said country; the only object of the high contracting parties, in this respect, being to prevent disputes and differences amongst themselves.”

These provisions were, by the second treaty, (the convention of August 6, 1827,) “indefinitely extended and continued in force,” with the following stipulation, however, for their abrogation, at the option of either party:

“ART. 2. It shall be competent, however, to either of the contracting parties, in case either should think fit, at any time after the 20th of October, 1828, on giving due notice of twelve months to the other contracting party, to annul and abrogate this convention; and it shall, in such case, be accordingly annulled and abrogated, after the expiration of the said term of notice.”

The President, in his late annual message, after reciting these facts, and stating the rejection by the British minister of the proposition formerly made, and recently renewed, to divide the country in dispute by the forty-ninth parallel of latitude, giving to Great Britain all north, and to the United States all south, of that degree, says:

“The extraordinary and wholly inadmissible demands of the British Government, and the rejection of the proposition made in deference alone to what had been done by my predecessors, and the implied obligation which their acts seemed to impose, afford satisfactory evidence *that no compromise which the United States ought to accept can be effected.*”

And that:

“All attempts at compromise having failed, it becomes the duty of Congress to consider what measures it may be proper to adopt for the security and protection of our citizens now inhabiting, or who may hereafter inhabit, Oregon, and for the maintenance of our just title to that territory. In adopting measures for this purpose, care should be taken that nothing be done to violate the stipulations of the convention of 1827, which is still in force. The faith of treaties, in their letter and spirit, has ever been, and, I trust, will ever be, scrupulously observed by the United States. Under that convention, a year's notice is required to be given by either party to the other before the joint occupancy shall terminate, and before either can rightfully assert or exercise exclusive jurisdiction over any portion of the territory. This notice it would, in my judgment, be proper to give; and I recommend that provision be made by law for giving it accordingly, and terminating, in this manner, the convention of the 6th of August, 1827.”

A majority of the Committee on Foreign Relations of this House has responded affirmatively to this recommendation of the President, and reported a resolution directing the notice to be given. The minority of that committee, waiving a discussion of the question whether notice ought to be given, contents itself with asserting that the power to annul the treaty, by means of the notice, belongs exclusively to the Executive, (that is, to the President alone,) or to the treaty-making power, (the President and the Senate,) and that, consequently, Congress has no authority to pass a mandatory act providing that the notice *shall* be given. The gentleman from Alabama, (Mr. HILLIARD,) objecting to the resolution reported by the committee, because of the positive nature of its requirements, proposes to amend it by striking out the part that makes it obligatory on the President to forthwith give the notice, and inserting, in lieu thereof, a clause merely empowering him to give it, “whenever, in his judgment, the public welfare may require it.”

Such, Mr. Chairman, are the main facts, independent of the evidences of title, and such the pending questions upon which we have to decide.

The first of these questions that I propose to consider is that presented by the report of the minority of the Committee on Foreign Relations, viz: To which of the departments of Government does the power belong to decide that the treaty under consideration shall be annulled, by giving the notice therein provided for?

I am aware that to discuss this question may seem somewhat like a very unnecessary labor, since the positions assumed in the minority report have apparently met with but little favor, either in this House or elsewhere. Nevertheless, as they come from the source and in the form they do, I think them entitled to at least consideration, and am, therefore, disposed to fairly examine them.

Does the power belong to the Executive? If it does, it must be derived, of course, from some clause in the Constitution. That that instrument con-

tains no such grant in express words—that is, that there is no power therein expressly conferred upon the President to annul a treaty—will be readily admitted. It follows, that if he possess the power, it must be by virtue of the general clause with which the second article of the Constitution begins, to wit: “The Executive power shall be vested in a President.” Now, without discussing the much debated question, whether this clause confers on the President any powers beyond those specifically enumerated in said second article, it is sufficient to say, that it cannot include the power to annul a treaty; for such a power is neither in its nature, nor in the contemplation of the Constitution, an Executive power. A treaty, provides the Constitution, “made under the authority of the United States, shall be the *supreme law of the land*.” The power to annul a treaty is, then, a power to annul a law. But the Executive power, in its nature, is a power to execute the laws, not to make or to abrogate them. And the Constitution of the United States has not extended this power in our Government beyond its strict nature and design, except to confer on the Executive a qualified veto, and to give him an agency in the *formation* of treaties; neither of which grants authorizes him to *abolish* any treaty or law.

I am not ignorant of the fact, Mr. Chairman, that the power in question was once claimed, in effect, for the President, by Gen. Hamilton; but his entire argument rested on a ground which cannot be maintained, and which he, himself, had shewn, in the 75th No. of the Federalist, to be utterly untenable, to wit, that the treaty-making power is in its nature an Executive power. There were other positions in the argument perhaps equally unsound, but time is not afforded me to notice them, nor is it necessary that I should do so. The whole argument was fully answered by Mr. Madison, and the judgment of the country has long since settled down, I believe, into a firm conviction that the doctrine of Gen. Hamilton was wrong. Certainly, he who at this day asserts that the President possesses the power to annul at will what the Constitution declares shall be the supreme law of the land, is bound to exhibit the clearest and most manifest proof of the existence of so transcendent a prerogative. This the minority of the Committee on Foreign Relations has not attempted to do. It intimates the existence of the power, but furnishes no arguments or evidence whatever to establish it.

Does the power belong to the President and Senate—they being invested by the Constitution with the treaty-making function? This is the next question. The only clause in the Constitution conferring powers on the President and Senate, in this particular, is the following:

“He (the President) shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other ministers and consuls.”

What is the power here conferred on the President and two-thirds of the Senate? A power to make treaties, not to unmake them, except where their abolition is effected by new treaty stipulations. Of course, a treaty may be put an end to by the formation of another treaty; and when its annulment is thus to be accomplished, the treaty-making power is obviously the power to act. But the present is altogether a different case. The question is, shall the convention of 1827 be abrogated, not by a new treaty, but by the notice? That there is no analogy between giving the notice and

making a treaty, is too plain to be denied. A treaty is a contract. Parties, and the agreement of the parties, are necessary to its existence. But this notice requires no such agreement. The giving it is the act of one Government alone, and needs no assent of the other Government to make it effectual. No function of the treaty-making power is exerted in giving it. That power is a power to negotiate, to stipulate, to contract. But here no negotiation, no stipulation, no contract is necessary. All that we have to do to annul the treaty, is simply to give the notice.

But it is contended, that although the giving the notice has no analogy to the making of a treaty, yet the power to give it is *incidental* to the treaty-making power. This leads us to inquire, what is an incidental power? It is a power, says General Hamilton, to employ the ordinary means that are necessary and proper to carry the expressed power into effect. Incidental powers, according to Mr. Madison, "are the means of attaining the *object* of the general power." What then is the "expressed," or "general," power conferred on the President and Senate? A power to *make* treaties. What is the object of that power? The *making* of treaties, not the general and exclusive control over our foreign affairs. And what are the incidents of the power? A right to use the ordinary means that are necessary and proper to accomplish the *formation* of treaties. But the measure now under consideration is not a measure for the formation of a treaty, but is exactly the reverse. Instead of being the means of making a treaty, it is the means of annulling one. Between it and the negotiation of a treaty there is no connection whatever, and the right to decide on it cannot, therefore, under the commonly received definition of incidental powers, be deemed to belong to the treaty-making power. Will it be said that this commonly received definition is too narrow; that implied powers are not restricted to the use of the means necessary to the *execution* of the powers expressed; but that, on the contrary, a grant of the power to *do* an act involves a grant of the right to *undo* it after it shall have been accomplished; and that, therefore, the President and Senate, being invested with the power to make treaties, are also invested with the power to annul them? Should this position be assumed, my answer is, that such a principle of construction, in reference to the Constitution of the United States, is altogether inadmissible; as an examination of that instrument will show. Thus, by the Constitution, the appointing power to office is vested in the President and Senate, (he nominating and a majority of the latter confirming,) but the power of removal from office does not follow as an incident. On the contrary, it belongs to the President *alone*, in virtue of the duty imposed on him of taking care "that the laws be faithfully executed." Thus, the power of making laws is conferred upon Congress, but the power of repeal is not thence derived by *implication*. No implication is necessary; for the grant of the power to make laws is a substantive grant of the power to repeal them; since the repeal of a law may as well be the subject matter of another law, as may any thing else. And thus the grant, to the President and Senate, of the power to make treaties, is, for a like reason, a substantive grant of the power to annul them *by other treaties*; but it is not an authority, either express or implied, to abrogate them in any other manner. If the treaty-making power can abolish treaties in other modes than the formation of new treaties, what are those modes, and where is the limit to its authority? Can it assume legislative functions, and repeal them by a legisla-

tive act, or a declaration of war? It will hardly be pretended. Can it derive powers from the treaties themselves which are not conferred on it by the Constitution? No one will assert it. How, then, can it act—how can it accomplish the object of annulling a treaty, except by the negotiation of a new one? I see no other mode.

The error into which the minority of the Committee on Foreign Affairs has fallen, arises, I conceive, from a mistaken assumption that the Constitution gives the entire control over each particular subject to a particular department of the Government. Such is not the fact. Take, for instance, the subject of foreign relations. A treaty is negotiated by the Executive, confirmed by the Senate, and the means for its execution, on our part, provided by Congress. War is declared by Congress, is conducted by the President, and peace is restored through the action of the treaty-making power. Commerce and intercourse with foreign nations are regulated by acts of Congress, as well as by treaties; and the execution of both the one and the other belongs to the Executive. These illustrations, out of a multitude that might be given, are sufficient to show that the *entire* management of our foreign affairs is not entrusted to the treaty-making power. Nor can any argument in support of such a proposition be drawn from the supposed confidential relations between the President and the Senate, and the thorough information they are deemed to possess; on which the minority report places so much reliance. Congress has the same right that belongs to the Senate of calling on the Executive for information; and before a resolution or bill that passes this House can become a law, it must receive the sanction of both the Senate and the President. Assuredly, if the supposed ignorance of this House, assumed by the minority report, is a sufficient reason to forbid its taking part in the abrogation of a treaty, it furnishes a much stronger reason why it should have no agency in a declaration of war. To determine on the propriety of the latter certainly requires a knowledge as extensive as can ever be needed to decide upon the former.

I have thus, Mr. Chairman, attempted to shew that the power in question does not belong to the Executive department, or to the treaty-making power. That it is not a judicial function is too obvious for argument. It follows, that it must be a legislative power, and therefore vested in Congress. For we cannot suppose that it is vested nowhere; and if it is not possessed by either the Executive, the treaty-making, or the judicial power, it must belong to the only remaining one—the legislative. And that there are grants of power in the Constitution to Congress, broad enough to include it, appears to me perfectly clear. The power to “provide for the common defence and general welfare of the United States,” to do which may require that an end be put to the privileges enjoyed by Great Britain under the treaty in question, is one of these grants; another, is the power “to regulate commerce with foreign nations, and among the several States, and with the Indian tribes,” by virtue of which Congress may, in my judgment, abrogate this treaty in the manner proposed; it being a treaty of commerce, navigation, and trade alone. And the power “to declare war” would also seem to include the power to annul a treaty which might interfere with the necessary preparations for the defence of the country.

I have so far, Mr. Chairman, argued this question without reference to precedents. If we look to them, we will find that Congress has passed a multitude of acts affecting the treaty stipulations of the country. Thus, as

early as 1798, a treaty of the most important character, between this country and France, and on the observance of which by us France strenuously insisted, was abrogated, out and out, by an act of Congress. And since then, how often have our treaty relations with foreign powers been changed by our legislation? We have not acknowledged, by legislative enactment, the independence of a single nation that has sprung into existence since our own commenced, and whose dominions were carved out of those of a power with which we had treaty stipulations, without affecting those stipulations by our act of acknowledgment. Witness the South American republics—Mexico, Texas, and other States—whose independence has thus been recognized.

And to refer to another familiar case, and one of very frequent occurrence. We make a treaty of commerce and navigation with a foreign power, and regulate, by it, the precise terms on which its citizens may trade with ours; but provide, also, that if at any time we shall accord more favorable terms to the subjects of any other nation, its citizens shall also enjoy such superior advantages. After this, we, by *law*, not by treaty, grant better terms to the people of another country, and thereby alter the privileges and change the rights of those with whom we had treated. The very last Presidential message mentions several cases of this kind.

I pass, now, Mr. Chairman, to the consideration of the amendment offered by the gentleman from Alabama. He proposes to vest the power of giving the notice in the President, to be exercised or not exercised at the discretion of that officer. In other words, he would give to the Executive the power to annul, at pleasure, what the Constitution declares shall be the supreme law of the land. To those who know me, Mr. Chairman, I need not say that I have, perhaps, as much confidence in the President of the United States as has any gentleman on this floor. But I should, nevertheless, sir, most deeply regret to have the alternative placed before me of being compelled to adopt the proposition of the gentleman from Alabama, or see the notice altogether fail. And although, under such circumstances, I would vote for the proposition, I would do so with unfeigned regret that Congress had thus, as I should feel, shrunk from performing a duty that properly devolved upon it, and set so dangerous an example of confiding legislative power to Executive discretion. And here I must be allowed, Mr. Chairman, to say that I have listened with astonishment to gentlemen, who, after torturing their imaginations hour by hour, and day by day, to depict the horrors that will, in their judgments, flow from giving this notice, after denouncing it, over and over again, as a war measure that must inevitably plunge the country into a disastrous and disgraceful conflict of arms, have finally closed their remarks by proposing to confer, without restriction, the authority to give it on the President of the United States. And to whose hands is it, Mr. Chairman, these gentlemen are willing to confide the war-making power of the land—for the war-making power it is, and no less, if their views are correct? Is it to a man who will not exercise the authority with which they clothe him, a man who will not give the notice, if the power to do so be conferred upon him? Is it to such a man, Mr. Chairman? No, sir, not at all. The President desires peace, earnestly desires it; but give this notice he will, and that right quickly, too, if Congress enable him to do it. No one, who has carefully read his message, and knows the firm and decided character of the man, can doubt for a moment on this

point. Why, has he not declared, in the most solemn manner, that our title to Oregon is clear and unquestionable? Did he not, when the proposition made by him, solely in deference to the action of his predecessors, was rejected by the British minister, instantly withdraw it, and insist on our right to the whole of the territory? Has he not told us, in his message, that, in his judgment, the notice ought to be given? And can any one doubt, after all this, whether he would give it, were the power to do so placed in his hands? And if no one can so doubt, is it not strange that gentlemen who assure us of their belief that war, dishonorable, ruinous war, will follow the notice, should yet be willing to enable the President to give it—give it at discretion? And is it not still more wonderful that the gentlemen, who thus propose to confide in the President, are not among the number of his political friends; and that they who, a few months since, were inquiring, “Who is James K. Polk?” are now, so rapid has been their acquisition of knowledge, both ready and willing to entrust him with what, if their judgments be correct, is the power to make war; are willing and ready to place in his hands a supreme law of the land, of vast importance to the peace of the country, to be continued in force, or utterly annulled, as his judgment or his will may dictate? Why, sir, I appeal to these Whig gentlemen, they whose party name implies opposition to prerogative and a partiality for the legislative branch of the Government; they who, for the last fifteen years, have been crying aloud against Executive power, and denouncing Executive discretion, even when the exercise of that discretion was warranted by the Constitution; I appeal to them, to tell me how it is that they can reconcile it to their principles to vote for the amendment of the gentleman from Alabama, instead of voting directly for the notice itself?

Mr. Chairman, if the power to annul this treaty by means of the notice is a legislative power, as I trust I have shown it is, it ought to be exercised by the legislature. The act for that purpose ought to be positive and unequivocal. It is equally inconsistent with the dignity of Congress, and with the dictates of sound policy, for us to evade a responsibility that properly belongs to us, by seeking to throw it upon another department. Besides, sir, if war is to follow from giving this notice, a thing affirmed by gentlemen, but which I wholly disbelieve, the country will be far more united if the notice shall have been given by the positive direction of Congress, than if it be an act of mere Executive judgment. Give it yourselves, and if a conflict ensue, we may hope to present to the foe an undivided front; but withdraw from it the support of your enactment, and make it the measure of the President alone, and the voice of faction will soon be heard. Soon will its notes of discord be raised—soon, very soon, will the charge be rung through the land, that we have been ruthlessly and recklessly plunged into a war by the weakness or the wickedness of a single man.

I come, lastly, Mr. Chairman, to the consideration of the main question: Ought the notice to be given at all? I think, sir, it ought. In my judgment both the honor and the interests of the country require it. I shall not detain the committee to state all the reasons that bring me to this conclusion, nor is it material that I should do so. Most of them have been already stated in the course of this debate. For me to recapitulate them would be a useless trespass on your patience; but were it otherwise, time is not left me in which to do it. I shall therefore content myself with calling attention to certain views of the subject that seem to me to be entitled to weight.

In doing this, the first thing that I desire the committee to observe is, that all, or very nearly all, who have taken part in this discussion, appeared to be convinced that *action* is necessary in reference to Oregon. All, or nearly all, state their belief that our title to that country is better than that of England, and express their hope that we will ere long possess the whole of it. All, or nearly all, are in favor of measures looking to a realization of that hope. The recommendations of the President, other than that respecting the notice, find almost universal favor. No one advocates the doctrine of absolute inactivity; but on the contrary all, or nearly all, proclaim their readiness to vote for the entire list of the Oregon propositions with the single exception of the notice. The raising of troops, the building of forts, the establishment of a mail, the creation of Indian agencies, the extension of our laws, prospective and liberal grants of land—all these measures, having for their object the encouragement of migration to Oregon, the protection of the settlers when there, and the ultimate extension of American jurisdiction over the whole of the territory—all these substantial and effective measures find a cordial approval, it seems, from nearly every member on this floor. Wherein then do we differ with each other? In this, that a portion of us are in favor, not only of adopting these measures, but also of giving the notice—the rest advocate the measures, but object to the notice. The measures, all support; the notice, a portion oppose. And why oppose it? Because, in their judgment, it will lead to war; and war, say they, cannot gain, but, on the contrary, may lose for us the whole of Oregon.

Now, Mr. Chairman, which of these two courses of policy, the adoption of the measures and the notice, or the passage of them without the notice, is the more likely to lead to war? Every one, without exception, agrees that giving the notice would not, of itself, be a just cause of war, or even be regarded by Great Britain as a ground of offence. What, then, would make it an offensive measure? The answer is, the circumstances under which it would be given. And what are those circumstances, pray, but the adoption of the measures of which I have spoken, and which all of us, those opposed to the notice, as well as those in favor of it, profess to approve and sustain? Does any man believe that if you were to simply give the notice, and abstain from adopting the measures, war would be the consequence? No one imagines any such thing. The notice is nothing without the measures. I mean its practical effect would be nothing; certainly nothing of which Great Britain would complain. It is the measures, then, which are to follow the notice, that are the things of substance. It is they that will send thousands of emigrants to Oregon, guarded by your troops, protected by your forts, under the panoply of your laws, to be rewarded by your bounty, and ultimately to occupy for you the entire territory; it is these measures, productive of these effects, that will give concern to the British Government, and not the reception of your notice to terminate a treaty of mere navigation and trade. Forward the notice, and you add not one jot or tittle to the amount of offence these measures will give; but adopt the measures without the notice, and you furnish Great Britain the only plausible ground of complaint she will have. You enable her to say that while professing a sacred regard for treaty engagements, you are insidiously employed in their systematic violation; and however false and unfounded the charge may be, it will nevertheless be certain to produce its effect. The opinion of that civilized world, of which we have heard so

often, and heard so much, and to which we are invoked to pay so profound a respect, will be arrayed on the side of your foe in condemnation of your course. From all parts of Europe you will hear the stereotyped phrase, that you are "re-enacting the Texas drama again;" a drama that consists in peopling the territory of a power with which you are at peace, with the ultimate design of wresting it from the hands of its lawful possessor. The charge was false as to Texas, it would be false as to Oregon; but that would not prevent its being made, and extensively believed, or render it aught but folly in us to needlessly provide its principal support. The United States are powerful enough to pursue an open and straight-forward policy; and any other course, allow me to say, would be as inimical to the interests of the republic, as it would be destructive of its character and dignity. Concurring, then, in the general judgment, that inactivity is no longer possible; that the time has arrived when we must take steps to occupy Oregon, or see it subjected practically to the British power; believing the measures proposed to be demanded alike by the opinion of the country, and the necessities of the case; and regarding the passage of these measures, without the notice, as more likely to hazard the peace and honor of the nation than would the adoption of both, I am in favor of the notice as well as the measures, and will vote for the resolution requiring it to be given.

And here, Mr. Chairman, I may as well remark that I do not believe that an immediate war is at all likely to take place, whatever may be our action on the questions before us. That Great Britain will go to war before she will surrender the whole of Oregon, I shall certainly not undertake to deny. My own opinion is that she will. Many persons of much more experience and ability than I can lay claim to, think she will not. But let it be assumed that she will, and it by no means follows that an immediate conflict will result from the adoption of our measures. On the contrary, nothing appears to me more certain than that hostilities will not commence until the alternative be brought *practically* home to Great Britain, either to yield up to our people her possessions in the territory, or to defend and maintain them by the force of arms. That point will not, in my judgment, be reached for several years to come, however effective may be the Oregon measures we adopt. It will not be reached until the preponderance of American settlers in the territory shall endanger the peace and security of British occupancy. Before that time, vexatious incidents may indeed occur—exciting cases may arise, from the assertion of adverse jurisdictions; but, in this age, instantaneous war does not tread on the heels of every wrong. If it did, the late war would not have been postponed for years, nor would events of latter days have passed as they have, and left the land in peace. But, come what may, Mr. Chairman, our duty is plain. Oregon is ours, and what is ours we ought to possess. If with twenty millions of people we do not maintain our rights, the world, be assured, will not accord them to us. We cannot hope to be respected, while exhibiting a weakness so disastrous and amazing. We owe it to our interests, we owe it to our honor, we owe it to the cause of republican government, that form of government that is daily charged with inability to resist aggression, we owe it to all these, to act with firmness and decision. It is not by the abandonment of our claims, the surrender of our territory, the discrediting of republicanism, and the disgrace of our name, that we will secure to ourselves the blessings of peace. And great, and beneficent, and desirable as those blessings are, it does not become us to seek them at so ruinous a price.

Mr. Chairman, I repeat, that we are in no danger of immediate war; but were it otherwise, were war declared this day, it could not result in the loss of Oregon. Gentlemen, who predict that result, underrate our strength as much as they exaggerate that of our adversary; and they do both to a singular degree. Grant that Great Britain has a powerful fleet in the Pacific, will the war be waged on the coasts of Oregon alone? Are there no British provinces to invade? Will there be no means of bringing home to her the horrors of the conflict? Will there be no battle-fields on which to settle the strife, save the distant and almost tenantless shores of the Pacific? The whole of Oregon be lost! The whole of Oregon be wrested from us by a power whose strength lies beyond the Atlantic! Incredible, sir. Such a result could never be. What would be the result no man may be sagacious enough to tell; but that a war would lose us the whole of Oregon is what any man may safely deny.

Mr. Chairman, I am in favor of giving this notice because a refusal to give it would, under existing circumstances, carry with it an implication that we are willing to yield to Great Britain, not only a portion of Oregon, but even a larger portion than we have ever yet offered her. So would she interpret our proceedings—so would the world interpret them. I do not wish to furnish grounds for such a belief. I do not wish such a belief to exist. It would only serve to swell and perpetuate the arrogance of her demands, and increase the difficulties that already surround us. The sooner we take a decided stand, the sooner we let our adversary know that Oregon being ours we will never surrender it; that being ours, we intend to possess it all; the sooner will she learn to respect our rights, the longer will she pause before she resolve to infringe them.

But it is said, Mr. Chairman, that we ought not to give the notice, because we are getting along under the treaty exceedingly well; that time is doing for us what arms could not; that migration and settlement will secure us Oregon if we have but the patience and wisdom to “let well alone”—that we are about to play the part of the hypochondriac, on whose tomb it was inscribed, that “He was well, thought himself sick, took medicine, and died.”

I shall not repeat, Mr. Chairman, the answers that have been given to this argument, and which conclusively shew that time and the treaty will not do for us what gentlemen suppose. But I beg those who advance the argument, and who believe it entitled to pre-eminent weight, to tell us how it is, that, if the treaty is working such glorious results for the United States, the British Government still permits it to exist. Why does not the notice come from Britain, if the treaty is so prejudicial, so disastrous, to her? Are her statesmen sagacious? All admit it. Are they well informed on this subject? It cannot be denied. Do they guard her interests? Her history will shew. Why then, I repeat, does not the notice come from her? There is but one answer to give, but one at least that is satisfactory, and that is, that the treaty is beneficial to her and injurious to us.

In the next place it is said, Mr. Chairman, that we ought not to close the door to negotiation. Close the door to negotiation, sir—how is the notice to do that? Unless war be produced by it, how is that to be its effect? I can conceive that it might lead to negotiation, but how, without war, will it tend to prevent it? And of what service, sir, has the treaty been to us in this respect? Has it furthered the settlement of the question in the slight-

est degree? Has it abated one jot of British pretension? Are we not now, after twenty-eight years negotiating under it, farther from an agreement than when we began? Has it not erected thirty British forts in Oregon, extended over it a code of British laws, planted in it a powerful British force, and extended her influence there a hundred fold? And have these things facilitated negotiation? Have these things lessened British demands? Or have they not strengthened them, day by day, and year after year, till they have reached their present preposterous height?

Mr. Chairman, I have no hopes, none whatever, from negotiation. Neither Government will offer what the other will accept. There is no use in concealing this fact from ourselves. There is no use in attempting to hide it. No American administration will dare to offer more than has already been offered, and no British ministry will ever accept what the British Government has four times rejected. I speak of what will be the course of the Governments if they do nothing but negotiate. There is nothing to be expected from negotiation; and our action ought not to be influenced by a hope that is altogether vain and illusory.

I proceed now to consider another objection that has been made to giving the notice. Assuming that war is to be its consequence, gentlemen say that we are not prepared for such an emergency. I answer, in the first place, that the assumption is altogether groundless; and, in the next, that war will never find us better prepared than we are at this moment. We do not keep large standing armies in times of peace, nor do we expend hundreds of millions in preparations on a mere contingency of war. Such is not, such never has been, and such never will be, either our practice or policy. The gentleman from Virginia, who addressed the committee yesterday, (Mr. BAYLY,) spoke of the miserable state of our fortifications, their want of repair, their lack of armament, and their general bad condition; and he specified particularly the works within his own district. Why, Mr. Chairman, did it never occur to the gentleman that, if we ought not to assert our rights until the Atlantic coast be fortified, we ought for the same reason to delay their assertion until the rest of our frontier be similarly protected? And is any one here prepared to postpone this notice until a circumference of 8,000 miles shall be studded with forts, until all the frontier States shall thus be shielded from harm? Is the seaboard, Mr. Chairman, the only line exposed to the enemy's attack? Do not Maine, New Hampshire, Vermont, New York, Ohio, Michigan, Indiana, Illinois, Wisconsin, and Iowa, present a northern frontier still more exposed? And are we to wait, Mr. Chairman, till this long line, stretching from the Atlantic to the confines of the "far West," be securely defended by military works, before we take steps to maintain our claims to Oregon? Do the people of these States ask us to do it? Does Ohio, within whose limits not a dollar has been expended for purposes of fortification, desire such delay? No, Mr. Chairman, no. The people of the United States are aware that their means of defence and power of attack depend not on standing armies and fortified posts, and they will never ask us to delay the assertion of national rights, or to fail to vindicate the national honor, in order to provide them with any such shield.

Mr. Chairman, I will vote as cheerfully as any one here for liberal appropriations to provide for defence, but I am not willing to delay the adoption of the Oregon measures until millions and tens of millions shall have been expended on fortifications that may never be needed, or which, if

needed, will be out of repair again before war come. I say, out of repair again before war come, for what does experience testify on this head? Whence arises the present state of our military works? How is it they are found in a condition so deplorably bad? Is there any answer to these questions but one? And what is that, but that in time of peace you will not burthen your treasury with even the costs of repair? Millions are voted occasionally to construct such works, and when the money is gone the works are but just begun. The expenditure made has but created a necessity for further and greater expenditure. The ordinary revenue is insufficient to meet it. The country is at peace, and Congress refuses extraordinary means. New appropriations to complete the works are consequently denied. Sums sufficient to preserve them are not always voted. Dilapidation and decay follow of course, and it is not till war is really at our doors that preparations for resistance are effectively commenced. So has it always been, and so will it always be; and it does therefore seem to me that it is idle to talk of postponing action on the subject of Oregon, until fortifications shall place us in a better state of defence. If either Congress or the country entertained the belief that war will be the necessary and speedy effect of the passage of the measures we propose to adopt, there would be no hesitancy whatever in preparing to meet it. Appropriations would be voted without a moment's delay—voted in no niggard sums and with no reluctant hand, but liberally, freely, cheerfully voted. Neither the country or Congress, however, entertains this belief, and not entertaining it, large military preparations will not be made. They are not recommended by the President, or by the Secretary of the Navy or War; they are not proposed by any committee of this House, or of the other branch of the Legislature; no member has introduced bills for that object, and none are likely to be introduced; and even the bills that have been brought in, little as they would increase our regular force, and comparatively small as would be the appropriations their passage would exact, are yet, it is seen, destined to be vigorously opposed. To delay the Oregon measures in order to fortify, is to postpone them to a time indefinitely remote. It is to give them the go-bye for years to come, and meet them with the same objections then that are urged against them now. Indeed, sir, we might almost as well postpone them to the period indicated by the remarks of another gentleman from Virginia, (Mr. BEDINGER,) who told us that our country is in a state of adolescence, a youth that is growing stronger day by day; that John Bull, on the contrary, is an old gentleman, a stout and a sturdy old man, it is true, but one in whose head the grey hairs begin to appear; that after a while he must totter and fail, and then will be our time to effectively strike. I trust that no one is willing to set so late a day as that for the assertion of our rights.

Mr. Chairman, of all the strange reasons that this debate has given utterance to, and which have been urged to show that the notice should not be given, the most extraordinary was, doubtless, one advanced by the gentleman from Virginia who sits on my right, (Mr. PENDLETON,) and with a passing and very brief notice of it, I will have said all that it is my intention to say. That gentleman told us, in effect, that we ought not to give the notice, which he considers a war measure, because Great Britain has acted in a manner so just and honorable towards us. "Have we an insult, a trespass, or even a menace to avenge? Has our flag been insulted,

our soil invaded, or our honor impeached?" These were the gentleman's questions, and I understood him also to ask: "Has Great Britain ever insulted our flag that she did not apologize or atone for the insult?" Strange questions these to be asked on the floor of an American Congress, by a representative of American citizens. Why, sir, British outrages on the rights, British insults to the flag, and British impeachment of the honor of the United States, began with the very treaty that acknowledged our independence, and have continued in unbroken succession down to the present time. Did she not withhold from us, year after year, our western posts, in violation of that treaty, and in despite of our complaints? Was not her flag seen to float over American soil, where the banner of the Union should alone have been found? Are the days of impressment already forgotten, and must gentlemen be told that thousands, yes, thousands, of American seamen were torn from the decks of American ships, taken from beneath the American flag, and forced to fight the battles of Britain against the freedom of the world? Has it already passed from the memories of men that an American frigate, in time of peace, suspecting no danger, and unprepared for defence, within the very waters of the United States, within the jurisdiction of Virginia herself, was basely assailed by superior force, and compelled to strike her flag to a British man-of-war? And to come down to later, yea, to recent times, has the gentleman never heard of British invasion of American soil, of British homicide of American citizens, of British insult to the American flag? Has he never heard that an American steamer, in the dead hour of night, was torn from her moorings at an American shore, her crew assassinated by a British force, the torch applied by a British hand, and the waves made to finish what the sabre began? Or, does he not know that apology has never been offered for this, if, indeed, apology could atone for so transcendent a wrong? Does he not know that the officer was knighted who commanded the troops, and the troops were rewarded who committed the deed?

Mr. Chairman, whatever reasons there may be for withholding the notice, British justice towards the United States is not among them. From that nation we have heretofore received little else than aggression, and it may be well for us to consider whether her line of conduct will ever be changed until American power shall be prompt to vindicate American rights.

